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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,981	02/20/2001	Kazuhiro Kusuda	Q63222	1740

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EXAMINER
ENATSKY, AARON L

ART UNIT	PAPER NUMBER
3713	

DATE MAILED: 03/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/785,981	KUSUDA, KAZUHIRO	
	Examiner	Art Unit	
	Aaron L Enatsky	3713	

-- The MAILING DATE of this communication appears on the cover she t with the correspondence address --

Peri d for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 January 2003* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disp sition of Claims

4)☒ Claim(s) *1-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *6* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Response to Amendment

Examiner acknowledges receipt of amendment on 01/03/03. The arguments set forth in the response are addressed herein below. Rejections based upon this prior art are contained herein below. Furthermore, the prior art rejections of record are being maintained for the reasons set forth in the response to argument section herein.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-2, 6-7, 11, 14-15, 17-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sitrick '509 in view of Wilson et al. '258 (Wilson).

In re claims 1, 6, 17, and 25 Sitrick teaches of a network game system with a plurality of attached game apparatuses interactive in a distributed game (Abstract). The game machines are attached to a central master controller (3:1-3) where the master controller sequences game information received from various game machines providing a coherent single game from a distributed game execution at multiple game machines (5:33-36, 6:15-19, and 7:11-15). The real-time presentation of the game is necessary from the user's input participation affecting the audio-visual works (6:20-32). The master controller also outputs game data to the attached game machines (5:31-32). The game could be used in a racing type game (11:45-50). Sitrick does not teach the distributed game system for use with a betting game. Wilson teaches a race wagering

system used in simulating a racing game providing audio/visual media (Abstract). Sitrick and Wilson are related in that both teach of simulated racing games. One would be motivated to modify Sitrick to include wagering on the race game to further increase the excitement, where the increase in excitement stems from players having a monetary stake associated with an executing race. A further result will increase game owner revenue, associated wagering type games. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sitrick to include wagering on competitive race type games to increase player excitement and house revenue.

In re claims 2 and 7, Sitrick teaches a user can create his or her own character and character function, which would allow a user to improve a character's abilities (11:45-50).

In re claims 11, 18, 21-22, and 26 Sitrick in view of Wilson (SIVW) teaches the claim limitations as discussed above, but does not expressly teach a totaling device use to total betting odds. However, as SIVW is involving race wagering, which is often pari-mutuel wagering, a totaling program is usually necessary to calculate constantly varying odds. Wilson teaches providing a totalisator device to provide real-time updated betting pool and odds information. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify SIVW to include the totalisator to accurately calculate the odds and payouts on the race game.

In re claim 14, Sitrick teaches the character improvement as discussed in claims 2 and 7 above.

In re claim 15, Sitrick teaches a master display for displaying individual peer game information (1:37-38) and further teaches a multiplayer race game (11:40-50). Sitrick does not

expressly state ranking race results, but it is old and well known in the video game art to rank race results, where one would be motivated to provide rankings to know what team/individual is winning for the purpose of placing a favorable wager. Furthermore, displaying peer game information often includes displaying peer rankings. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sitrick to display rankings on the master display as peer game information.

In re claims 19-20, Sitrick in view of Wilson teaches claimed the limitations as discussed above, but does not expressly teach game start synchronization through the networked game machines. However, certain games require synchronized starts, such as some race games, and synchronizing network machines is considered well within the capabilities of one of ordinary skill in the art.

In re claims 23-24, Sitrick teaches that a great deal of flexibility exists in choosing distributed system functions and is really a design choice (5:60-67 and 6:15-19). Therefore, have the races executed by the game terminal independently would have been an obvious matter of design choice.

Claim 3-4, 8-9, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sitrick in view of Wilson (SIVW) further in view of Khosla '063. SIVW teaches the claimed limitations as discussed above, but does not teach providing data from a real-time race as game data. Khosla teaches race simulation game that gathers real-time data and provides the data to a computer system to create a concurrent simulation of the live event (Abstract). SIVW and Khosla are related as both teach simulating race games for user entertainment. One would be motivated to modify SIVW to include real-time race data with race simulation as to increase a

highly interactive video game with the drama and publicity surround a live event (Khosla, Abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify SIVW to use real-time race data for formulation of game data to provide increased excitement through publicity of a live event.

In re claim 16, Sitrick teaches the game machines as arcade type machines (Fig. 1A-1C).

Claims 5, 10, and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over SIVW further in view of Best '026. SIVW teaches claimed the limitations as discussed above, but does not teach using synthesized speech selected by game players. Best teaches using synthesized speech that is selected by game for integration into a video game (Abstract). Best further teaches that this speech system could be used to announce plays in a simulated game (Abstract), where one of ordinary skill would associate announcing game plays in a ball game similar to announcing race plays/states, thus motivating one to use the announcing system to announce race states. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify SIVW to use synthesized speech to announce race execution states, for a more realistic game atmosphere. In regards to accent or intonation, these speech replication features are disclosed as phonetically distinct and easily distinguishable from each other.

In re claim 12, SIVW in view of Best teaches the claimed limitations as discussed above, but does not teach the speech data stored on the control unit, while the speech and commentator engine are on a separate game machine. Best teaches speech data storage and retrieval device on a main unit (4:1-27), and also portions of a game are executed on a remote game device (Fig. 13). Both SIVW and Best do not teach the speech synthesis or commentator executing on the

remote game machines, however, SIVW teaches a distributed audio/visual game where aspects of the game are executed and run on both a main controller and remote game machines, wherein the remote game machines have processors and audio output devices (Sitrick, 3:1-19). One would be motivated to modify SIVW in view of Best using the remote game devices to generate the speech synthesis and commentator dialog to utilize distributed computing techniques. Having the speech synthesis and commentator executed on the remote game machines will allow for the use of a smaller processor in a central controller. A smaller central controller processor will reduce overall system cost as a smaller processor cost less, and will lead maximizing overall use of all processing power available in the networked game system. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify SIVW in view of Best to have speech data storage and retrieval device on a main controller, while modifying a remote game machine to process and output speech synthesis and commentary received from a main controller to reduce system costs and optimize available processing power.

Response to Arguments

Applicant's arguments have been fully considered, but are not considered persuasive. Applicant's first arguments are directed to Sitrick in view of Wilson. Applicant believes that Sitrick does not have the elements of game parameters assigned in advance of game execution. Examiner contends that Sitrick does in fact teach these elements through a user creating his or her own character functions and image (11:35-51). In response to applicant's argument that the technology involved in Sitrick and Wilson are wholly different, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one

or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Furthermore, even though Sitrick does not teach horse racing or wagering, Sitrick does not teach away from applicant's invention. Wagering on any competitive sport is notoriously well known and Applicant's own arguments provides support that racing sports of various types are analogous by showing interchangeability of horse, boat, and auto racing (New Claims Pg. 9). Examiner also notes that Applicant has not provided actual arguments against the rejection of the independent claims, provided as obvious over the combination of Sitrick in view of Wilson. Applicant has only argued the references as if the rejection was based on either reference alone.

In regard to the arguments of claims 2, 7, 11, and 14-15, Applicant submits that Examiner has used improper hindsight to reach the conclusions that players can improve the abilities of player characters. Sitrick does teach character improvement through the ability to create his or her own character image and functions as discussed above. In choosing character functions, a player wishing to perform better in a game would obviously choose functions that increase the ability of a character.

In regard to the rejection over Sitrick in view of Wilson and further in view of Khosla, Applicant asserts that Khosla does not have wagering elements and distinguishes between race games and betting. Khosla, as Applicant has ascertained, is used to show that real time data capture for a game system is known. Khosla does not need the wagering elements since Wilson teaches the elements of collecting, processing, and displaying odds regarding a race. Furthermore, Khosla does not distinguish nor teach away from racing games versus betting

games. Khosla merely discloses that gambling and betting on live events from remote locations is a known occurrence. Again, Applicant is arguing against the prior art on an individual basis, not as obvious in view of the combinations.

In regard to the rejection as unpatentable over Sitrick in view of Wilson, and further in view of Best, Applicant argues that the invention is distinct over prior art since the present invention uses speech registration data desired by a player. Best does teaches speech registration desired by players, wherein a player selects the words they want to use at different points in a game (Abstract: 13-18). The selected word or phrase becomes the synthesized speech used in the game, thus meeting Applicant's requirement of speech registration data and synthesized speech based on speech registration data.

Citation of Pertinent Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Matheson '930 teaches a method of synchronizing remote gaming terminals.

Hochstein et al. '176 teaches synchronization video game terminals that are remote from each other.

Edelstein '104 teaches user speech registration data integrated into a game.

Ng '855 teaches games played independently on remote terminals that can be integrated into a larger game.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron L Enatsky whose telephone number is 703-305-3525. The examiner can normally be reached on 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on 703-308-4119. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Aaron Enatsky
March 12, 2003

V. Martin-Wallace

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